





# **TODAY'S TOPIC IS** **VARIOUS STAGES OF TRIAL**



# Hello

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# Types of Criminal Trial

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## Warrant Trial

(Sec. 225-237, Cr.P.C before Sessions Court )

(Sec. 238-250, Cr.P.C before Judicial Magistrate Court )

**Punishment 7 Years or more**

**Summon Trial (Sec. 251-259, Cr.P.C)**

**Punishment maximum 2 Years**

**Summary Trial (Sec. 260-265, Cr.P.C)**

**Punishment maximum 6 Months**



## What are the duties and responsibilities of a Deputy Superintendent of Police?

A DSP is the Subordinate Officer to the Superintendent of Police ; he assists the S.P. and also manages the following all works for the Police Departments, such as **preventing crime, managing police stations, controlling investigations, etc.**

Besides those , followings are also the duties of the DSP : **a)** Maintenance of Public Peace & Order ; **b)** Traffic Regulation and Management ; **c)** Security & Protective Duties **d)** Relief & Disaster Management ; **e)** Investigation & its Supervision ; **f)** Scientific Aids & Methods of Investigation ; **g)** Forensic science ; **h)** Forensic Medicine; **i)** Trial of Cases and Court Management ; **j)** Computer Appreciation and Introduction to other Office Automation Devices ; **k)** Human Behaviour ; **l)** Relationship Management; **m)** Relation with Groups and Institutions.





## **The whole Criminal Law consists of three main Acts :—**

Indian Penal Code, 1860

Code of Criminal Procedure, 1973

Indian Evidence Act, 1872

### **Classification of Criminal Law**

#### **Substantive Criminal Law or Real Criminal Law :**

Indian Penal Code, 1860

#### **Procedural Criminal Law or Adjective Criminal Law :**

Code of Criminal Procedure, 1973

Indian Evidence Act, 1872

Indian Penal Code and Code of Criminal Procedure are together known as “twin sisters” of criminal law.



**Indian Penal Code, 1860 (IPC)** is the primary penal law of India, which applies to all offences.

**Code of Criminal Procedure, 1973 (Cr. P. C.)** is the procedural law for conducting a criminal trial in India. The procedure includes the manner for collection of evidence, examination of witnesses, interrogation of accused, arrests, safeguards and procedure to be adopted by Police and Courts, bail, the process of criminal trial, a method of conviction or acquittal, and the rights of the accused of a fair trial by principles of natural justice.

**Indian Evidence Act , 1872 (IEA)** is a comprehensive (ব্যাপক) , treaty on the law of “evidence”, which can be used in the trial, the manner of production of the evidence in a trial, and the evidentiary value which can be attached to such evidence.



### **What is meant by Complaint Case?**

A complaint in the legal world refers to the first document that is filed by the plaintiff in a case. ... For example, a complaint filed in a civil case may detail the ways in which the plaintiff believes the defendant defrauded him, and why the plaintiff is entitled to a damages award as a result.

### **What is meant by Police Case?**

It means the police report by which the police seek to place the alleged offender on trial and invite the Magistrate to take cognizance for the purpose of proceeding against him according to law.



## What is the difference between FIR (First Information Report) and GD (General Diary) ?

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If the Police believe that there is some prima facie evidence of a cognizable offense being committed, it is registered as an **FIR (First Information Report)**.

A **General Diary (GD)** entry or a daily diary entry is made when any kind of complaint is lodged and the police enter the details in their records.

**F.I.R. is not encyclopedia of entire case** - Need not contain all details - Name of co-accused not mentioned by informant who was eye-witness - Absence of name of co-accused in F.I.R. - Not fatal. **2007 Criminal Law Journal 758** (Rotash v. State of Rajasthan) \* **FIR-What constitutes - Information must be sufficient for police to start investigation** - Mere information with police that victim has been gang raped - Police having no other clue - Such information cannot be treated as F.I.R. - Absence of name of accused in police diary entry made on basis of such information - Cannot be taken advantage of by defence. **2002 Criminal Law Journal 1297** (Haresh Mahadeo Kamble v. State of Maharashtra) \* **FIR lodged with police which disclosed commission of offence, but without details of offence - FIR is valid** - What is of significance is that the information given must disclose the commission of a cognizable offence. **General Diary Entry can be treated as FIR. AIR 2003 SC 4140** (Superintendent of Police, C.B.I. v. Tapan Kr. Singh) **FIR is not a substantive piece of evidence - AIR 2010 Supreme Court 2768** (C. Magesh & Ors. v. State of Karnataka) **Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case.** If the delay is explained to the satisfaction of the Court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case. **2010 (6) Supreme Court Cases 493** [Utpal Das v. State of West Bengal (SC)]

## TRIAL FROM BEGIN TO END

**Written Complaint** lodged by the Complainant or Police Suo moto -- Particular Police Case being started -- Written Complaint became **FIR** (First Information Report) and Complainant became defacto-complainant -- Endorsement for Investigation by Officer-in-Charge/ Inspector-in-Charge -- IO (Investigation Officer) took up the investigation -- Perused the FIR -- Visit the PO (Place of Occurrence) -- Drawn a Rough Sketch Map with Index -- Recorded statement of the available witnesses as per the provision of Sec. 161, Cr.P.C -- Arrest of the accused, if deemed proper by the investigation officer -- interrogate the accused person(s) -- Recorded statement of the accused person(s) as per the provision of Sec. 161, Cr.P.C -- Send the witnesses and/or accused person(s) to the Judicial Magistrate for recording statement as per the provision of Sec. 164, Cr.P.C -- Prayer for Police Remand (within 15 days from the date of arrest) -- Leading to the discovery -- Prepared seizure list -- Scientific analysis/opinion, if required, to FSL (Forensic Science Laboratory Division)

## **TRIAL FROM BEGIN TO END**

– **Completion of investigation** -- Submission of Charge Sheet/Final Report after consultation with the Superior Officer – Cognizance taken by the Judicial Magistrate – Supply the Copies as per the provision of Sec.207 , Cr.P.C.

Transfer the Case to the file of the Judicial Magistrate for Trial and Disposal. If it is Sessions Triable Offence (Punishment for more than 7 years), then the Case will be committed to Court of Sessions for Trial and Disposal as per the provision of Sec.209, Cr.P.C.

**Starting of Trial – Framing of Charge** -- Evidence by Prosecution, on whom generally the onus of proof lies – Completion of Prosecution Evidence – Examination of the Accused person(s) as per the provision of Sec.313, Cr.P.C – Defence witness , if any – Hearing Argument – **Judgement.**

**Either Acquittal or Conviction**

## PRESUMPTION

The presumption of innocence is a legal principle that every person accused of any crime is considered innocent until proven guilty. [Sec.101 to 103, Evidence Act, 1872](#)

Sec. 304B , IPC—(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death. *Explanation.*—For the purpose of this sub-section, “dowry” shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961 (28 of 1961). (2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.] [Ins. by Act 43 of 1986, S. 10 \(w.e.f. 19-11-1986\)](#)

Sec.113B, Evidence Act — Presumption as to dowry death -- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death. *Explanation.*—For the purposes of this section, “dowry death” shall have the same meaning as in Section 304-B of Indian Penal Code (45 of 1860).] [Ins. by Act 43 of 1986, S. 12 \(w.e.f. 19-11-1986\).](#)

## What is meaning of Framing of Charge?

The primary object of framing of charge **to tell the accused person precisely and concisely about what the prosecution intends to prove against him**. Framing of charge is vital part in a criminal trial.

Hence, **before submission of a charge sheet/police report, the question of framing of charges does not arise**. Though in layman's language, when a person is accused of an offence it is said that such person has been charged with the offence.

In simple terms, charge means **informing the accused person of the grounds on which the accused is charged**. A charge is defined under Section 2(b) of the Criminal Procedure Code, 1973 which states, the charge includes any head of the charge when the charge contains more than one head.

Generally, Charge can not be framed in the absence of accused. Either in **summary trial cases or in summons procedure cases**, it is not at all necessary to frame a charge against the accused person.

**Charges already framed cannot be altered**, for that is not the purport of Section 216 CrPC. appropriate cases, in the interest of justice, but at the same time, the courts should also see that it's orders would not cause any prejudice to the accused.

### Sec. 211, Cr.P.C. Contents of Charge.

1. Every charge under this Code shall state the offence with which the accused is charged.
2. If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.
3. If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.
4. The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.
5. The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.
6. The charge shall be written in the language of the Court.
7. If the accused, having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge; and if such statement has been omitted, the Court may add it at any time before sentence is passed.





## **Different Stages of Criminal Trial in a Warrant Case when instituted by the Police Report :**

**Firstly : First Information Report:** Under Section 154 of the Code of Criminal Procedure, a FIR or First Information Report is registered. FIR puts the case into motion. A FIR is information given by someone (aggrieved) to the police relating to the commitment of an offense.

**Secondly : Investigation:** The next step after the filing of FIR is the investigation by the investigating officer. A conclusion is made by the investigating officer by examining facts and circumstances, collecting evidence, examining various persons and taking their statements in writing and all the other steps necessary for completing the investigation and then that conclusion is filed to the magistrate as a police report.

**Thirdly : Charges :** If after considering the police report and other important documents the accused is not discharged then the Court frames charges under which he is to be trialled. In a warrant case, the charges should be framed in writing.

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### **Different Stages of Criminal Trial in a Warrant Case when instituted by the Police Report :**

**Fourthly : Plea of guilty:** Section 241 of the Code of Criminal Procedure, 1973 talks about the plea of guilty, after framing of the charges the accused is given an opportunity to plead guilty, and the responsibility lies with the judge to ensure that the plea of guilt was voluntarily made. The judge may upon its discretion convict the accused.

**Fifthly : Prosecution evidence:** After the charges are framed, and the accused pleads guilty, then the Court requires the prosecution to produce evidence to prove the guilt of the accused. The prosecution is required to support their evidence with statements from its witnesses. This process is called “examination in chief”. The magistrate has the power to issue summons to any person as a witness or orders him to produce any document.

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### **Different Stages of Criminal Trial in a Warrant Case when instituted by the Police Report :**

**Sixthly : Statement of the accused:** Section 313 of the Criminal Procedure Code gives an opportunity to the accused to be heard and explain the facts and circumstances of the case. The statements of accused are not recorded under oath and can be used against him in the trial.

**Seventhly : Defence evidence:** An opportunity is given to the accused in a case where he is not being acquitted to produce so as to defend his case. The defense can produce both oral and documentary evidence. In India, since the burden of proof is on the prosecution the defense, in general, is not required to give any defense evidence.

**Eighthly : Judgement :** The final decision of the Court with reasons given in support of the acquittal or conviction of the accused is known as judgement. In case the accused is acquitted, the prosecution is given time to appeal against the order of the Court. When the person is convicted, then both sides are invited to give arguments on the punishment which is to be awarded. This is usually done when the person is convicted of an offense whose punishment is life imprisonment or capital punishment.



### Stages of Criminal Trial in a Warrant Case when Private Complaint institutes case :

**Firstly :** Cognizance taken. On the filing of the complaint, the court will examine the complainant and its witnesses on the same day or any other day to decide whether any offense is made against the accused person or not.

**Secondly :** After examination of the complainant, the Magistrate may order an inquiry into the matter and submit a report for the same.

**Thirdly :** After examination of the complaint and the investigation report, the court may come to a conclusion whether the complaint is genuine or whether the prosecution has sufficient evidence against the accused or not. If the court does not find any sufficient material through which he can convict the accused, then the court will dismiss the complaint and record its reason for dismissal.

**Fourthly :** After examination of the complaint and the inquiry report, if the court thinks that the prosecution has a genuine case and there are sufficient material and evidence with the prosecution to charge the accused then the Magistrate may issue a warrant or a summon depending on the facts and circumstances.

### **Stages of Criminal Trial in a Summons Case**

**A. Pre-Trial:** In the pre-trial stage, the process such as filing of FIR and investigation is conducted.

**B. Charges:** In summons trials, charges are not framed in writing. The accused appears before the Court or is brought before the Court then the Magistrate would orally state the facts of the offense he is answerable.

**C. Plea of guilty:** The Magistrate after stating the facts of the offense will ask the accused if he pleads guilty or has any defense to support his case. If the accused pleads guilty, the Magistrate records the statement in the words of the accused as far as possible and may convict him on his discretion. (Sec. 251, Cr.P.C)

**D. Plea of guilty and absence of the accused:** In cases, where the accused wants to plead guilty without appearing in the Court, the accused is supposed to send Rs.1000/- by post or through a messenger (lawyer) to the Magistrate. The absentee should also send a letter containing an acceptance of guilt and the amount of fine provided in the summons. The Magistrate can on his discretion convict the accused.

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## Stages of Criminal Trial in a Summons Case

**E. Prosecution and Defense evidence:** In summons case, the procedure followed is very simple and elaborate procedures are eliminated. If the accused does not plead guilty, then the process of trial starts. The prosecution and the defense are asked to present evidence in support of their cases. The Magistrate is also empowered to take the statement of the accused.

**F. Judgement:** When the sentence is pronounced in a summons case, the parties need not argue on the amount of punishment given. The sentence is the sole discretion of the Judge. If the accused is acquitted, the prosecution has the right to appeal. This right to appeal is also extended to the accused.





## **Summary Trial :**

### **Stages of Criminal Trial in Summary Cases**

- i) The procedure followed in the Summary Trial is similar to summons-case.
- ii) Imprisonment up to three months can be passed.
- iii) In the judgement of a Summary Trial , the Judge should record the substance of the evidence and a brief statement of the finding of the Court with reasons.

## Framing of Charge

The purpose of Framing a Charge is to give intimation to the accused of clear, unambiguous and precise notice of the nature of accusation that the accused is called upon to meet in the course of a trial.

**Court of Sessions : Sec. 228, Cr.P.C -- Framing of charge** .—(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which — (a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report; (b) is exclusively triable by the Court, he shall frame in writing a charge against the accused. (2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be **read and explained** to the accused, and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.

**Court of Judicial Magistrate : Sec. 240, Cr.P.C -- Framing of charge--** (1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused. (2) The charge shall then be **read and explained** to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.



## Plea

In criminal practice, the **Plea** is the Accused person's formal answer to the indictment or information presented against him.

**Sec 251, Cr.P.C – Substance of Accusation** – When in a summons-case the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked whether he pleads guilty or has any defence to make, but it shall not be necessary to frame a formal charge.

Criminal Procedure Code, 1973 Sections 451 Case Property - Articles are not be kept for more than 15 days to month - Disposal of case property :-

1. Valuable property such gold, silver should not be kept in Police Custody for years till trial is over - Magistrate should pass appropriate orders as contemplated under Section 451 Criminal Procedure Code, 1973 at the earliest.
2. Property be handed over to owner after -
  - (a) preparing detailed proper panchnama of such articles; (b) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and (c) after taking proper security.
3. If property is not handed over on sapurdari, then such articles be kept in bank lockers.
4. Vehicles should not kept at police stations for long - These should be given in sapurdari by taking adequate security - Vehicle should auctioned if there is no claimant.
5. For articles such as seized liquor also, prompt action should be taken in disposing it of after preparing necessary panchnama.
6. For the Narcotic drugs also, for its identification, procedure under Section 451 Criminal Procedure Code, 1973 should be followed of recording evidence and disposal.

**AIR 2003 Supreme Court 638 (Sunderbhai Ambalal Desai v. State of Gujarat)**

## Important Rulings

### Evidence Collection Stage

Criminal trial - Evidence collection stage - Practice to first decide, any objection raised to admissibility of evidence and then proceed further with trial - Impedes steady and swift progress of Trial - Practice recasted - Courts should now make note of objection, mark objected document tentatively as exhibit and decide objection at final stage. **AIR 2001 Supreme Court 1158** (Bipin Shantilal Panchal v. State of Gujarat)

## Important Rulings

### Delay in Recording Statement U/s. 161, CrPC

Criminal Procedure Code, 1973 Section 161 Evidence Act, 1872 Section 118 Indian Penal Code, 1860 Section 302 Delay in recording the statements of P.Ws under Section 161 of Cr.P.C. - Effect on prosecution evidence - Murder witnessed by daughter of deceased aged 7 years - Delay in recording statement of this witness because investigating officer waited for some time to recover the child from shock - Delay properly explained :- Any delay in examining this witness under Section 161 of Cr.P.C. will not prejudice the prosecution. **AIR 2016 Supreme Court 5160** (Yogesh Singh v. Mahabeer Singh)

Criminal Procedure Code, Sections 41 and 41A - Arrest of a person in cognizable and non-bailable offence - No arrest should be made only because the offence is non-bailable and cognizable and therefore, lawful for the police officers to do so - Arrest be made after some investigation as to the genuineness of allegation. Police officers directed not to automatically arrest a person where a case is registered under Section 498A, IPC, Dowry Prohibition Act and also in cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to 7 years - Arrest be made after some investigation as to the genuineness of allegation.

**2014 Criminal Law Journal 3707** (Arnesh Kumar V. State of Bihar)

Very recently, the Hon'ble Supreme Court of India has been pleased to pass an order in SLP (Cri) No. 1758/2022 on the 11th of March, 2022 reiterating the order passed in Arnesh Kumar Case stated above



## Important Rulings

## Dowry Death

Indian Penal Code , Sections 304B and 498A - Dowry Death - Essential ingredients of offence are as under :- (i) The death of a woman should be caused by burns or bodily injury or otherwise than under a normal circumstances. (ii) Such a death should have occurred within seven years of her marriage. (iii) She must have been subjected to cruelty or harassment by her husband or any relative of her husband. (iv) Such cruelty or harassment should be for or in connection with demand of dowry. (v) Such cruelty or harassment is shown to have been meted out to the woman soon before her death. **AIR 2003 Supreme Court 2865 [Hira Lal v. State (Govt. of NCT) Delhi]**

## Important Rulings

## Alternative Charge in case of Sec.304B, IPC

Criminal Procedure Code, Section - Indian Penal Code, 1860 Sections 304B In every case under Section 304B also there is a death involved - The question whether it is murder punishable under Section 302 Indian Penal Code or a dowry death punishable under Section 304B Indian Penal Code depends upon the fact situation and the evidence in the case - If there is evidence whether direct or circumstantial to prima facie support a charge under Section 302 Indian Penal Code the trial Court can and indeed ought to frame a charge of murder punishable under Section 302 Indian Penal Code, which would then be the main charge and not an alternative charge. **AIR 2014 Supreme Court 841 [Jasvinder Saini v. State (Govt. of NCT of Delhi)]**

## Various types of Cyber Crime

**1. Phishing :** Phishing is when criminals send fraudulent emails pretending to be from legitimate businesses, in an attempt to collect sensitive, personal information. Often, any links in the email will redirect to a website owned by the scammer, so always be careful about what information you give out on the Internet.

**2. Harassment :** Cyber stalkers (বখাটে) use electronic communication, such as email, social media, or websites to stalk and harass people. Forms of online harassment include slander, libel, false accusations, threats, or any other behavior that demeans or embarrasses someone. Sentences for cyberstalking can include jail time and hefty fines.

**3. Ransomware :** Cyber criminals can install malicious software on your system that will essentially hold your important information hostage until you meet their demands. A common ransomware attack will shut down a victim's computer or encrypt their files, agreeing to release them only if the victim pays a ransom. All too often, however, the files are never recovered.

**4. Prostitution :** Many escorts will advertise their services in online classifieds, social media forums, or their own personal websites, making it easy and discreet for people to find them. But since prostitution is illegal in the vast majority of the United States, both the escort and the client are committing a crime.

## Various types of Cyber Crime

**5. Child Pornography & Solicitation :** The National Center for Missing and Exploited Children received over 10 million reports of suspected child sexual exploitation in the last year alone. Perpetrators will use the Internet to gain access to sexually explicit images of children, and sometimes even arrange for a face-to-face meeting. Ransomware is a type of malware used to extort money by holding the victim's data or device to ransom.

**6. Intellectual Property Theft :** More commonly known as piracy, the Internet abounds with books, music, movies, and more that have been illegally obtained and made available for free download. Despite what some people say, piracy is not a victimless crime. Not only do artists and creators lose out, but many illegal downloads also contain hidden malware that can destroy your computer.

**7. Account Hacking :** We all know how important it is to guard our passwords – think about the damage someone could do if they gained access to your email account containing all your most personal information. If someone logs into your email, social media, or computer without authorization, they could potentially face jail time.

### Various types of Cyber Crime

**8. Drug Trafficking :** With the rise of cryptocurrency, the online drug trade has increased significantly over the past few years. Illegal drugs such as marijuana, cocaine, meth, ecstasy, and heroin are all just a few clicks away – and according to research by the Rand Corporation, over 35% of worldwide revenues from online drug trafficking are based in the United States.

**9. Credit Card Fraud :** Half of all credit card fraud begins with spyware, malicious software unknowingly installed on a victim's computer or handheld device. Spyware runs in the background, collecting your data and sending it back to the criminal, who then uses your card to make fraudulent purchases.

**10. Malware attacks :** A malware attack is where a computer system or network is infected with a computer virus or other type of malware. A computer compromised by malware could be used by cybercriminals for several purposes. These include stealing confidential data, using the computer to carry out other criminal acts, or causing damage to data. A famous example of a malware attack is the WannaCry ransomware attack, a global cybercrime committed in May 2017. Ransomware is a type of malware used to extort money by holding the victim's data or device to ransom.

**Police Regulations, Bengal**  
**CHAPTER VI/ The Police-station / I. - General duties of the staff**

**Sec.207. Duties of Assistant Sub-Inspectors. [§ 12, Act V, 1861]**

(c) When the officer-in-charge and the junior Sub-Inspectors, if any, are absent or ill, the senior Assistant Sub-Inspector is competent under section 4(p), Code of Criminal Procedure, to assume charge of the station and to exercise any of the functions of an officer-in-charge. Except in unavoidable emergencies, however, he will not be employed in investigation. Even when the Sub-Inspector is absent, he shall, as a rule, on receipt of information of a cognizable case, do no more than take such preliminary steps (e.g., recording the First Information Report, and arranging for the pursuit of thieves) as may be necessary. Then, if the Sub-Inspector is within the limits of the police-station, the Assistant Sub-Inspector shall send the complainant and the parties at once to him with a copy of the First Information Report. Only if the Sub-Inspector is ill or absent from his jurisdiction, shall the Assistant Sub-Inspector take up the investigation himself.

## Important Rulings

### Appreciation of Evidence

Evidence Act, Section 134 - No particular number of witnesses is required for proof of any fact - It is not the number of witnesses but it is the quality of evidence which is required to be taken note of by the courts for ascertaining the truth of the allegations . **AIR 2004 Supreme Court 1236** (Food Inspector v. G. Satyanarayana)

Evidence Act, 1872, Section 3 - Evidence - Witness - Appreciation of evidence - Credibility of witness - Court has to examine whether the witness is an interested witness and to enquire whether the story deposed to by him is probable and whether it has been shaken in cross-examination - It would be unsafe to discard the evidence of a witness which appears otherwise to be reasonable and probable, merely because some suggestions were made to him without those suggestions being proved to be true. **AIR 1963 Supreme Court 1728** (Ishwari Prasad Misra v. Mohammad Isa)



## Important Rulings

### Faulty Investigation

Murder case - Faulty investigation - I.O. failing to collect blood-stained earth, empties etc. from place of incident - Evidence of eye-witnesses that there was altercation between deceased and accused - That accused thereafter fired three shots at deceased, snatched his cash bag and ran away - Fully corroborated by medical evidence - Lacuna in investigation stands completely covered - Prosecution story cannot be disbelieved - Conviction of accused as also sentence imposed on them - Not liable to be interfered with.

**AIR 2011 Supreme Court 184** (Maqbool alias Zubir alias Shahnawaz and Anr v. State of A.P)

## Important Rulings

### Stage of Formal Arrest

Evidence Act, Section 27 - Information supplied by accused leading to discovery of huge quantity of explosive material - Such a person must be accused of any offence and that he must be in the custody of a police officer" and it is not essential that such an accused must be under formal arrest **2014(3) Calcutta**

**Criminal Law Reporter 500** [Chandra Prakash v. State of Rajasthan (SC)]

## Important Rulings

### Disclosure of identity of victim

Penal Code (45 of 1860), S.228A – **Disclosure of identity of victim** - Restriction in S.228-A though does not relate to printing or publication of judgment by High Court or Supreme Court – But keeping in view social object of preventing social victimization or ostracism of victim of a sexual offence - Name of victim should not be indicated in judgments of Supreme Court, High Court or Lower Court. **AIR 2006 Supreme Court 1267**  
(Dinesh @ Buddha v. State of Rajasthan)

## Important Rulings

### Imposition of Appropriate Punishment

**Imposition of appropriate punishment** is the manner in which the Courts respond to the society's cry for justice against the criminals. Justice demands that Courts should impose punishment fitting to the crime so that the Courts reflect public abhorrence of the crime. The Courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of appropriate punishment. **1994(2) Supreme Court Cases 220** (Dhananjay Chatterjee alias Dhana v.State of W.B)



## Important Rulings

### Nirbhaya Case - Impact on Society & Society's Cry

Criminal Procedure Code, 1973 Section 235 – Awarding of sentence - While determining sentence in heinous crimes, Judges ought to weigh its **impact on society** and impose adequate sentence considering collective conscience or **society's cry** for justice - While considering imposition of appropriate punishment, courts should not only keep in view rights of criminal but also rights of victim and society at large. **AIR 2017 Supreme Court 2161** [Mukesh v. State for NCT of Delhi (SC)] [Popularly known as '*Nirbhaya*' Case (not her real name)]

Criminal Procedure Code, Sections 306 and 309 - **Approver's evidence** - Principles which relate to the acceptance of the evidence of an approver summed up :-

- (i) An approver is a most unworthy friend, if at all, and he, having bargained for his immunity, must prove his worthiness for credibility in court.
- (ii) Evidence of the approver is always to be viewed with suspicion especially when it is seriously suspected that he is suppressing some material facts.
- (iii) The evidence of the approver implicating several accused persons in the commission of the offence must not only be corroborated generally but also qua each accused but that does not mean that there should be independent corroboration of every particular circumstance from an independent source.
- (iv) Conviction could only be based on the testimony of the accomplice if it is thought reliable as a whole and if it is corroborated by independent evidence either direct or circumstantial, connecting the accused with the crime.
- (v) Evidence of an approver and the corroborating pieces of evidence should be treated in two different compartments, that is to say, the court shall first have to consider the evidence of the approver de hors the corroborated pieces of evidence and reject it if it comes to the conclusion that his evidence is unreliable; but if it comes to the conclusion that it is reliable, then it will have to consider whether that evidence is corroborated by any other evidence.
- (vi) The story given by an approver so far as the accused on trial is concerned, must implicate him in such a manner as to give rise to a conclusion of guilt beyond reasonable doubt.
- (vii) The nature and extent of the corroboration may depend upon the facts of each case and the corroboration need not be of any direct evidence that the accused committed the crime - The corroboration even by circumstantial evidence may be sufficient.

**2014(8) Supreme Court Cases 340** [ Chandra Prakash v. State of Rajasthan

## Important Rulings

### Common Intention

Indian Penal Code, Section 302 - Indian Penal Code, Section 34 - Common intention - Murder committed by accused persons who formed common intention - An accused who did not cause any injury would also be liable - For applying Section 34 it is not necessary to show some overt act on the part of the accused.

**2008 (3) Recent Criminal Reports 325** [Hemchand Jha v. State of Bihar , (SC)]

## Important Rulings

### Omission of Police to record certain evidence

Criminal Procedure Code, Section 161 - Omission of Police to record certain evidence in statement of witness under Section 161, Criminal Procedure Code, 1973 - It would not amount to rejection of evidence of witness which is otherwise creditworthy and acceptable evidence.

**AIR 2003 Supreme Court 282** [Alamgir v. State (NCT, Delhi)]



## Important Rulings

### Dacoity with Murder - Death Sentence

**S. 396, IPC. Dacoity with murder.**—If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, everyone of those persons shall be punished with death, or 403[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

[S.403. Subs. by Act 26 of 1955, S. 117 and Sch., for “transportation for life”.]

**Dacoity.**—Appellant accused, held, rightly convicted for dacoity as the dacoity itself, and his role in guarding the house from the outside with another accused, while dacoity was being committed inside the house by other accused, stood established. **(2019) 12 Supreme Court Cases 784** (Raju Manjhi v. State of Bihar)



## What are cyber crimes?

**Cyber crime, also called computer crime**, the use of a computer as an instrument to further illegal ends, such as committing fraud, trafficking in child pornography and intellectual property, stealing identities, or violating privacy.

### Various Types of Cyber Crimes

1. Phishing ; 2. Harassment ; 3. Ransomware ; 4. Prostitution ; 5. Child Pornography & Solicitation ; 6. Intellectual Property Theft ; 7. Account Hacking ; 8. Drug Trafficking ; 9. Credit Card Fraud and 10. Malware attacks





"Respect for reputation of women in the society shows the basic civility of a civilised society. No member of society can afford to conceive the idea that he can create a hollow in the honour of a woman. Such thinking is not only lamentable but also deplorable. It would not be an exaggeration to say that the thought of sullyng the physical frame of a woman is the demolition of the accepted civilised norm i.e. "physical morality".

**(2013) 7 Supreme Court Cases 77**

[Shyam Narain v. State (NCT of Delhi)]

সমাজে নারীর সুনামের প্রতি সম্মান দেখায় একটি সভ্য সমাজের মৌলিক সভ্যতা। একজন নারীর সম্মানে তিনি যে অন্তঃসারশূন্যতা সৃষ্টি করতে পারেন এমন ধারণা সমাজের কোনো সদস্যেরই ধারণ করা সম্ভব নয়। এই ধরনের চিন্তা শুধু দুঃখজনকই নয়, শোচনীয়ও বটে। এটা বললে অত্যুক্তি হবে না যে, একজন নারীর শারীরিক কাঠামোকে অপমান করার চিন্তাই স্বীকৃত সভ্য আদর্শের অবসান, অর্থাৎ "শারীরিক নৈতিকতা"।



## Nomenclature for writing Section

Whenever we mention any Section, we need to remember the Nomenclature or the Writing process behind it. E.g. Sec. 498 is a section in IPC relating to enticing or detaining a married woman with a criminal intent.

Whereas Sec. 498A, IPC has been introduced for the Cruelty upon a woman by husband or relative of the husband. So, they are independent sections.

Sec.498(A), IPC means the Sub-section of Sec.498, IPC which is unknown to law.

For example, Sec.376(D), IPC is related to Punishment for Rape by the management or staff of a jail. On the other hand, Sec.376D, IPC is related to Gang Rape. Sec.304B is Dowry Death, whereas, Sec.304(B), IPC is unknown to Law.



### **Act vs act**

Act is the Statute of Law.

Whereas act is the short form of activity, working or carrying out.

### **Damage vs Damages**

Damage means harm or injury caused when something is broken or spoiled

Whereas, Damages means the compensation for a caused Damage.

### **Vicarious Liability**

Vicarious Liability refers to fact of the Master being responsible for the deed of the servant. For example Deputy Superintendent of Police is master with respect to that of Constable(s), ASI(s), SI(s), OC(s), IC(s). So if their subordinate did something wrong, the Vicarious or the Hierarchical Liability comes upon the Master or the superordinate.



ঢাকের বাজনা টা মুখস্থ করা খুব সহজ কিন্তু যদি দুটো কাঠি হাতে দিয়ে বাজাতে বলা হয় সেটা কিন্তু খুব শক্ত।

It is very easy to memorize the rhythm of drums but if you are asked to play with two sticks in hand it is very hard.

মাটির বন্ধন হতে মুক্তি তরুর স্বাধীনতা নয় ।

Emancipation from the bondage of soil , is not for the freedom of the tree.





# Thanks!

**Any questions?**

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## FIR

**F.I.R. is not encyclopedia of entire case** - Need not contain all details - Name of co-accused not mentioned by informant who was eye-witness - Absence of name of co-accused in F.I.R. - Not fatal. **2007 Criminal Law Journal 758** (Rotash v. State of Rajasthan)

**FIR-What constitutes - Information must be sufficient for police to start investigation** - Mere information with police that victim has been gang raped - Police having no other clue - Such information cannot be treated as F.I.R. - Absence of name of accused in police diary entry made on basis of such information - Cannot be taken advantage of by defence. **2002 Criminal Law Journal 1297** (Haresh Mahadeo Kamble v. State of Maharashtra)

**FIR lodged with police which disclosed commission of offence, but without details of offence - FIR is valid** - What is of significance is that the information given must disclose the commission of a cognizable offence. **General Diary Entry can be treated as FIR. AIR 2003 SC 4140** (Superintendent of Police, C.B.I. v. Tapan Kr. Singh)

**FIR is not a substantive piece of evidence - AIR 2010 Supreme Court 2768** (C. Magesh & Ors. v. State of Karnataka) **Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case.** If the delay is explained to the satisfaction of the Court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case. **2010 (6) Supreme Court Cases 493** [Utpal Das v. State of West Bengal (SC)]



## New Thought

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**O** denotes Opportunity. In Yesterday - there is no O, but in Today there is an O but in Tomorrow there are two Os.

**A to Z 1 to 26** . Money - 72 , Luck - 47 , Love - 54 , Knowledge - 96 , Hardwork - 98 , Skill - 82 & Leadership - 89 . How to Overcome the situation. ATTITUDE.

**No Lock** has been produced without any Key.

Always remember , Nothing is impossible in the World. Be Positive.



## Notes on Criminal Trial

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